REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. Claims 1-18 and 26-40 remain pending. Claims 1-40 are rejected. Claims 19-25 are cancelled herein without prejudice.

35 U.S.C. § 102(e) Rejections - Claims 1-3, 6, 8, 10-12, 14, 16, 18, 33, 34 and 36-39

According to the instant Office Action, Claims 1-3, 6, 8, 10-12, 14, 16, 18, 33, 34 and 36-39 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0158913 by Agnoli et al., hereinafter referred to as Agnoli. Applicants have reviewed Agnoli and respectfully submit that the embodiments as recited in Claims 1-3, 6, 8, 10-12, 14, 16, 18, 33, 34 and 36-39 are not anticipated by Agnoli for at least the following rationale.

MPEP §2131 provides:

> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Applicants respectfully submit that the rejection of the Claims is improper as the rejection of Claims 1-3, 6, 8, 10-12, 14, 16, 18, 33, 34 and 36-39 does not satisfy the requirements of a *prima facie* case of anticipation as claim embodiments are not met by Agnoli. Applicants respectfully submit that Agnoli does not teach or suggest the claimed embodiments in the manner set forth in independent Claims 1, 11, 33 and 37.

Applicants note that independent Claim 1 recites (emphasis added):

> A method of servicing content for delivery to a client device, said method comprising:
> identifying a type of service to be performed on an item of content, wherein said item of content is identified during a session involving said client device;
> using an estimate of resources associated with performing said service to select a provider from a plurality of providers capable of performing said service; and
> providing information for transferring said session to said provider, wherein said provider performs said service on said item of content upon being transferred said session.

Independent Claims 11, 33 and 37 recite similar embodiments. Claims 2, 3, 6, 8 and 10 that depend from independent Claim 1, Claims 12, 14, 16 and 18 that depend from independent Claim 11, Claims 34 and 36 that depend from independent Claim 33 and Claims 38 and 39 that depend from independent Claim 37 also include these recitations.

In particular, Applicants respectfully submit that Agnoli does not teach, describe or suggest "providing information for transferring said session to said provider, wherein said provider performs said service on said item of content upon being transferred said session" (emphasis added) as recited in independent Claims 1 and 33. Independent Claims 11 and 37 recite similar embodiments.

Applicants understand Agnoli to disclose a "system, method and computer program product for publishing transcoded media content in response to publishing service requests from end users" (Abstract). Applicants understand Agnoli to disclose a

system in which a publishing service request processor receives a publishing service request from a client and the forwards the media content to the client. In particular, Applicants respectfully submit that the publishing service request processor maintains a connection with the requesting client, and that a session with the client is not transferred to a provider. In contrast, Applicants understand that a transcoding server is selected for transcoding, but that all communication to the client is performed via the publishing service request processor.

With reference to FIG. 3 and FIG. 4A of Agnoli, a system for processing on-demand media provider requests is shown. As recited in Agnoli, "[a] client 402 sends a publishing service request to publishing service request processor 310" ([0085]) and "[d]istribution server 360 passes the transcoded media content to publishing service request processor 310, which forwards the transcoded media content to client 402, or to whatever client was specified in the publishing service request" (emphasis added; [0086]).

Applicants note that media provider request processor 340 is operable to select a transcoding server 350 ([0028] and [0029]). However, Applicants respectfully submit that selecting a transcoding server does not anticipate "transferring said session to said provider" as claimed. As presented above, communication with the client is maintained by the publishing service request processor 310, and is not transferred.

In summary, Applicants respectfully submit that the rejections of the Claims are improper as the rejection of Claims 1-3, 6, 8, 10-12, 14, 16, 18, 33, 34 and 36-39 does

not satisfy the requirements of a *prima facie* case of anticipation as the claims are not met by Agnoli. Applicants respectfully submit that Agnoli does not show or suggest the embodiments of independent Claims 1, 11, 33 and 37, and that these claims are in condition for allowance. Claims 2, 3, 6, 8 and 10 that depend from independent Claim 1, Claims 12, 14, 16 and 18 that depend from independent Claim 11, Claims 34 and 36 that depend from independent Claim 33 and Claims 38 and 39 that depend from independent Claim 37 also recite these embodiments. As such, Applicants also respectfully submit that Agnoli does not show or suggest the embodiments as recited in Claims 2, 3, 6, 8, 10, 12, 14, 16, 18, 34, 36, 38 and 39, and that these claims are also in condition for allowance as being dependent on an allowable base claim. Therefore, the Applicants respectfully assert that the basis for rejecting Claims 1-3, 6, 8, 10-12, 14, 16, 18, 33, 34 and 36-39 under 35 U.S.C. § 102(e) is traversed.

35 U.S.C. § 103(a) Rejection – Claims 4, 5, 15 and 35

According to the instant Office Action, Claims 4, 5, 15 and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Agnoli in view of U.S. Patent No. 6,421,733 by Tso et al., hereinafter referred to as "Tso." Applicants have reviewed Agnoli and Tso and respectfully submit that the embodiments as recited in Claims 4, 5, 15 and 35 are patentable over Agnoli and Tso, alone or in combination, for at least the following rationale.

Claims 4 and 5 are dependent on independent Claim 1, Claim 15 is dependent on independent Claim 11, and Claim 35 is dependent on independent Claim 33. Hence, by demonstrating that the combination of Agnoli and Tso does not show or suggest the

embodiments of Claims 1, 11 and 33, it is also demonstrated that the combination of Agnoli and Tso does not show or suggest the embodiments of Claims 4, 5, 15 and 35.

"As reiterated by the Supreme Court in KSR, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries" including "[a]scertaining the differences between the claimed invention and the prior art" (MPEP 2141(II)). "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious" (emphasis in original; MPEP 2141.02(I)). Applicants note that "[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art" (emphasis added; MPEP 2141(III)). Moreover, Applicants respectfully note that "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention" (emphasis in original; MPEP 2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

Applicants respectfully submit that the claimed invention as a whole is not obvious over Agnoli in view of Tso. First, as presented above, Applicants respectfully submit that Agnoli does not disclose "providing information for transferring said session

to said provider, wherein said provider performs said service on said item of content upon being transferred said session" (emphasis added) as recited in independent Claims 1 and 33, and the similar embodiment of independent Claim 11. In contrast, Applicants understand Agnoli to disclose the selection of a transcoding server while maintaining a connection with a client. Moreover, Applicants respectfully submit that by disclosing that a connection is maintained between a client and a publishing service request processor, Agnoli teaches away from the claimed embodiments.

Second, Applicants respectfully submit that Tso does not remedy the deficiencies in Agnoli because Tso does not suggest "providing information for transferring said session to said provider, wherein said provider performs said service on said item of content upon being transferred said session" (emphasis added) as claimed.

Therefore, Applicants respectfully submit that Agnoli and Tso, alone or in combination, do not show or suggest the embodiments of independent Claims 1, 11 and 33, and that these claims are in condition for allowance. As such, Applicants also respectfully submit that Agnoli and Tso, alone or in combination, do not show or suggest the embodiments as recited in Claims 4 and 5 dependent on independent Claim 1, Claim 15 dependent on independent Claim 11, and Claim 35 dependent on independent Claim 33, and that these claims are also in condition for allowance as being dependent on an allowable base claim. Therefore, the Applicants respectfully assert that the basis for rejecting Claims 4, 5, 15 and 35 under 35 U.S.C. § 103(a) is traversed.

35 U.S.C. § 103(a) Rejection – Claims 7, 17 and 40

According to the instant Office Action, Claims 7, 17 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Agnoli in view of U.S. Patent Application Publication No. 2003/0046396 by Richter et al., hereinafter referred to as "Richter." Applicants have reviewed Agnoli and Richter and respectfully submit that the embodiments as recited in Claims 7, 17 and 40 are patentable over Agnoli and Richter, alone or in combination, for at least the following rationale.

Claim 7 is dependent on independent Claim 1, Claim 17 is dependent on independent Claim 11, and Claim 40 is dependent on independent Claim 37. Hence, by demonstrating that the combination of Agnoli and Richter does not show or suggest the embodiments of Claims 1, 11 and 37, it is also demonstrated that the combination of Agnoli and Richter does not show or suggest the embodiments of Claims 7, 17 and 40.

Applicants respectfully submit that the claimed invention as a whole is not obvious over Agnoli in view of Richter. First, as presented above, Applicants respectfully submit that Agnoli does not disclose "providing information for transferring said session to said provider, wherein said provider performs said service on said item of content upon being transferred said session" (emphasis added) as recited in independent Claim 1, and the similar embodiment of independent Claims 11 and 37. In contrast, Applicants understand Agnoli to disclose the selection of a transcoding server while maintaining a connection with a client. Moreover, Applicants respectfully submit that by disclosing that a connection is maintained between a client and a publishing service request processor, Agnoli teaches away from the claimed embodiments.

Second, Applicants respectfully submit that Richter does not remedy the deficiencies in Agnoli because Richter does not suggest "providing information for transferring said session to said provider, wherein said provider performs said service on said item of content upon being transferred said session" (emphasis added) as claimed.

Therefore, Applicants respectfully submit that Agnoli and Richter, alone or in combination, do not show or suggest the embodiments of independent Claims 1, 11 and 37, and that these claims are in condition for allowance. As such, Applicants also respectfully submit that Agnoli and Richter, alone or in combination, do not show or suggest the embodiments as recited in Claim 7 dependent on independent Claim 1, Claim 17 dependent on independent Claim 11, and Claim 40 dependent on independent Claim 37, and that these claims are also in condition for allowance as being dependent on an allowable base claim. Therefore, the Applicants respectfully assert that the basis for rejecting Claims 7, 17 and 40 under 35 U.S.C. § 103(a) is traversed.

35 U.S.C. § 103(a) Rejection – Claims 9 and 13

According to the instant Office Action, Claims 9 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Agnoli in view of U.S. Patent No. 6,407,680 by Lai et al., hereinafter referred to as "Lai." Applicants have reviewed Agnoli and Lai and respectfully submit that the embodiments as recited in Claims 9 and 13 are patentable over Agnoli and Lai, alone or in combination, for at least the following rationale.

Claim 9 is dependent on independent Claim 1 and Claim 13 is dependent on independent Claim 11. Hence, by demonstrating that the combination of Agnoli and Lai does not show or suggest the embodiments of Claims 1 and 11, it is also demonstrated that the combination of Agnoli and Lai does not show or suggest the embodiments of Claims 9 and 13.

Applicants respectfully submit that the claimed invention as a whole is not obvious over Agnoli in view of Lai. First, as presented above, Applicants respectfully submit that Agnoli does not disclose "providing information for transferring said session to said provider, wherein said provider performs said service on said item of content upon being transferred said session" (emphasis added) as recited in independent Claim 1 and the similar embodiment of independent Claim 11. In contrast, Applicants understand Agnoli to disclose the selection of a transcoding server while maintaining a connection with a client. Moreover, Applicants respectfully submit that by disclosing that a connection is maintained between a client and a publishing service request processor, Agnoli teaches away from the claimed embodiments.

Second, Applicants respectfully submit that Lai does not remedy the deficiencies in Agnoli because Lai does not suggest "providing information for transferring said session to said provider, wherein said provider performs said service on said item of content upon being transferred said session" (emphasis added) as claimed.

Therefore, Applicants respectfully submit that Agnoli and Lai, alone or in combination, do not show or suggest the embodiments of independent Claims 1 and 11, and that these claims are in condition for allowance. As such, Applicants also respectfully submit that Agnoli and Lai, alone or in combination, do not show or suggest the embodiments as recited in Claim 9 dependent on independent Claim 1 and Claim 13 dependent on independent Claim 11, and that these claims are also in condition for allowance as being dependent on an allowable base claim. Therefore, the Applicants respectfully assert that the basis for rejecting Claims 9 and 13 under 35 U.S.C. § 103(a) is traversed.

35 U.S.C. § 103(a) Rejection – Claims 19-23, 25-30 and 32

According to the instant Office Action, Claims 19-23, 25-30 and 32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Agnoli in view of Tso. Claims 19-23 and 25 are cancelled herein without prejudice. Therefore, a discussion of the rejection of Claims 19-23 and 25 is moot at this time. Applicants have reviewed Agnoli and Tso and respectfully submit that the embodiments as recited in Claims 26-30 and 32 are patentable over Agnoli and Tso, alone or in combination, for at least the following rationale.

Applicants note that independent Claim 26 recites (emphasis added):

> A system for streaming content to a client device, said system comprising:
>
> a service manager for receiving a request for an item of content from a portal, wherein said portal received said request from said client device, wherein said service manager is also for selecting a provider from a plurality of providers, each provider capable of performing a service on

said item of content, wherein said service manager maintains a record comprising resources associated with said providers and wherein said service manager uses an estimate of resources associated with performing said service to select said provider according to information in said record, wherein data for said item of content are streamed from a source to said provider and wherein service result data are streamed from said provider to said client device.

Claims 27-30 and 32 that depend from independent Claim 26 also include these recitations.

Applicants respectfully submit that the claimed invention as a whole is not obvious over Agnoli in view of Tso. First, Applicants respectfully submit that Agnoli does not disclose "wherein data for said item of content are streamed from a source to said provider and wherein service result data are streamed from said provider to said client device" (emphasis added) as recited in independent Claim 26. In contrast, as recited in Agnoli, "[d]istribution server 360 passes the transcoded media content to publishing service request processor 310, which forwards the transcoded media content to client 402, or to whatever client was specified in the publishing service request" (emphasis added; [0086]). Moreover, Applicants respectfully submit that by disclosing that the publishing service request processor forwards the transcoded media content to the client, Agnoli teaches away from the claimed embodiments.

Second, Applicants respectfully submit that Tso does not remedy the deficiencies in Agnoli because Tso does not suggest "wherein data for said item of content are streamed from a source to said provider and wherein service result data are streamed from said provider to said client device" (emphasis added) as claimed.

Therefore, Applicants respectfully submit that Agnoli and Tso, alone or in combination, do not show or suggest the embodiment of independent Claim 26, and that this claim is in condition for allowance. As such, Applicants also respectfully submit that Agnoli and Tso, alone or in combination, do not show or suggest the embodiments as recited in Claims 27-30 and 32 dependent on independent Claim 26, and that these claims are also in condition for allowance as being dependent on an allowable base claim. Therefore, the Applicants respectfully assert that the basis for rejecting Claims 26-30 and 32 under 35 U.S.C. § 103(a) is traversed.

35 U.S.C. § 103(a) Rejection – Claims 24 and 31

According to the instant Office Action, Claims 24 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Agnoli in view of Tso, further in view of Richter. Claim 24 is cancelled herein without prejudice. Therefore, a discussion of the rejection of Claim 24 is moot at this time. Applicants have reviewed Agnoli, Tso and Richter, and respectfully submit that the embodiments as recited in Claim 31 is patentable over Agnoli, Tso and Richter, alone or in combination, for at least the following rationale.

Claim 31 is dependent on independent Claim 26. Hence, by demonstrating that the combination of Agnoli, Tso and Richter does not show or suggest the embodiment of Claim 26, it is also demonstrated that the combination of Agnoli, Tso and Richter does not show or suggest the embodiment of Claim 31.

Applicants respectfully submit that the claimed invention as a whole is not obvious over Agnoli in view of Tso, further in view of Richter. As presented above, Applicants respectfully submit that Agnoli and Tso do not disclose "wherein data for said item of content are streamed from a source to said provider and wherein service result data are streamed from said provider to said client device" (emphasis added) as recited in independent Claim 26. In contrast, as recited in Agnoli, "[d]istribution server 360 passes the transcoded media content to publishing service request processor 310, which forwards the transcoded media content to client 402, or to whatever client was specified in the publishing service request" (emphasis added; [0086]). Moreover, Applicants respectfully submit that by disclosing that the publishing service request processor forwards the transcoded media content to the client, Agnoli teaches away from the claimed embodiments.

Moreover, Applicants respectfully submit that Richter does not remedy the deficiencies in Agnoli and Tso because Richter does not suggest "wherein data for said item of content are streamed from a source to said provider and wherein service result data are streamed from said provider to said client device" (emphasis added) as claimed.

Therefore, Applicants respectfully submit that Agnoli, Tso and Richter, alone or in combination, do not show or suggest the embodiment of independent Claim 26, and that this claim is in condition for allowance. As such, Applicants also respectfully submit that Agnoli, Tso and Richter, alone or in combination, do not show or suggest the embodiment as recited in Claim 31 dependent on independent Claim 26, and that this

claim is also in condition for allowance as being dependent on an allowable base claim. Therefore, the Applicants respectfully assert that the basis for rejecting Claim 31 under 35 U.S.C. § 103(a) is traversed.

CONCLUSION

In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims.

Based on the arguments presented above, Applicants respectfully assert that Claims 1-18 and 26-40 overcome the rejections of record, and therefore Applicants respectfully solicit allowance of these claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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